

Montana

Agency	Department of Public Health and Human Services, Office of the Inspector General, Licensure Bureau
Contact	Tara Wooten
E-mail	tara.wooten@mt.gov
Phone	(406) 444-1575
Website	https://dphhs.mt.gov/qad/licensure/HealthCareFacilityLicensure/lbfacilityapplications/index1

Licensure Term Assisted Living Facilities

Definition An assisted living facility is a congregate, residential setting that provides or coordinates personal care; 24-hour supervision and assistance, both scheduled and unscheduled; and activities and health-related services. Four categories of facilities provide different levels of care, based on the needs of residents. Assisted living facilities are licensed as Category A, Category B, Category C, and Category D.

Regulatory and Legislative Update The Montana Department of Public Health and Human Services, Quality Assurance Division, licenses assisted living facilities as a setting for frail, elderly, or disabled persons. This setting provides supportive health and service coordination to maintain the resident's independence, individuality, privacy, and dignity.

There have been no regulatory or legislative changes in the past year in Montana.

Facility Scope of Care An assisted living facility must, at a minimum, provide or make provisions for:

- (1) Personal services, such as laundry, housekeeping, food service, and local transportation;
- (2) Appropriate assistance with activities of daily living (ADLs);
- (3) Recreational activities;
- (4) Assistance with self-medication;
- (5) 24-hour on-site supervision by staff; and
- (6) Assistance in arranging health-related services, such as medical appointments and appointments related to hearing aids, glasses, or dentures.

Personal care assistance must be provided to each resident in accordance with their established agreement and needs. Assistance must include but is not limited to assisting with: personal grooming such as bathing, hand washing, shaving, shampoo and hair care, nail filing or trimming and dressing; oral hygiene or denture care; toileting and toilet hygiene; eating; the use of crutches, braces, walkers, wheelchairs or prosthetic devices, including vision and hearing aids; and self-medication.

Evidence that the facility is meeting each resident's needs for personal care services include the following outcomes for residents:

(a) physical well-being of the resident means the resident:

- (i) has clean and groomed hair, skin, teeth and nails;
- (ii) is nourished and hydrated;
- (iii) is free of pressure sores, skin breaks or tears, chaps and chaffing;
- (iv) is appropriately dressed for the season in clean clothes;
- (v) risk of accident, injury and infection has been minimized;

and

(vi) receives prompt emergency care for illnesses, injuries and life threatening situations;

b) behavioral and emotional well-being of the resident includes:

(i) an opportunity to participate in age appropriate activities that are meaningful to the resident if desired;

(ii) a sense of security and safety;

(iii) a reasonable degree of contentment; and

(iv) a feeling of stable and predictable environment;

(c) unless medically required by a physician or other practitioner's written order, the resident is:

(i) free to go to bed at the time desired;

(ii) free to get up in the morning at the time desired;

(iii) free to have visitors;

(iv) granted privacy;

(v) assisted to maintain a level of self-care and independence;

(vi) assisted as needed to have good oral hygiene;

(vii) made as comfortable as possible by the facility;

(viii) free to make choices and assumes the risk of those choices;

(ix) fully informed of the services that are provided by the facility;

(x) free of abuse, neglect and exploitation;

(xi) treated with dignity; and

(xii) given the opportunity to participate in activities, if desired.

(3) In the event of accident or injury to a resident requiring emergency medical, dental or nursing care or, in the event of death, the assisted living facility shall:

(a) immediately make arrangements for emergency care or transfer to an appropriate place for treatment;

(b) immediately notify the resident's practitioner and the resident's legal representative.

(4) A resident shall receive skin care that meets the following standards:

(a) the facility shall practice preventive measures to identify those at risk and maintain a resident's skin integrity. Risk factors include:

(i) skin redness lasting more than 30 minutes after pressure is

relieved from a bony prominence, such as hips, heels, elbows or coccyx; and

(ii) malnutrition/dehydration, whether secondary to poor appetite or another disease process; and

(b) an area of broken or damaged skin must be reported within 24 hours to the resident's practitioner. Treatment must be provided as ordered by the resident's practitioner.

A resident may purchase third party services provided by an individual or entity, licensed if applicable, to provide health care services under arrangements made directly with the resident or resident's legal representative under the provisions of state law. The resident or resident's legal representative assumes all responsibility for arranging for the resident's care through appropriate third parties. Third party services shall not compromise the assisted living facility operation or create a danger to others in the facility.

A Category B facility may provide skilled nursing care or other skilled services consistent with move in and move out requirements. Category B facilities must also provide enhanced care for prevention and care of pressure ulcers, medication administration, and incontinence care in order to maintain the resident's normal bladder and bowel functions.

A Category C facility provides care to meet the needs of individuals with severe cognitive impairment that renders them incapable of expressing needs or making basic care decisions.

Limitations of Services

Service limitations vary by facility Category (A-D) as noted in "Facility Scope of Care" and "Move-in Requirements including Required Disclosures/Notifications."

Move-in Requirements Including Required Disclosures/Notifications

To move into and remain in a Category A facility, an individual:

- (1) Must not require physical or chemical restraint or confinement in locked quarters;
- (2) Must not have a stage III or stage IV pressure ulcer;
- (3) Must not have a gastrostomy or jejunostomy tube;
- (4) Must not require skilled nursing care or other skilled services on a continued basis except for the administration of medications;
- (5) Must not be a danger to self or others; and
- (6) Must be able to accomplish ADLs with supervision and assistance, including having the ability to express needs or make basic care decisions.

To move in and remain in a Category B facility, an individual:

- (1) May require skilled nursing care or other services for more

than 30 days for an incident and for more than 120 days a year, that may be provided or arranged for by the facility or the resident, as provided for in the facility agreement;

(2) May be consistently and totally dependent in more than four ADLs;

(3) Must not require physical or chemical restraint or confinement in locked quarters;

(4) Must not be a danger to self or others;

(5) Has a practitioner's written order for moving in to a Category B facility and written orders for care; and

(6) Must have a signed health care assessment, renewed on a quarterly basis by a licensed health care professional who:

(i) actually visited the facility within the calendar quarter covered by the assessment;

(ii) has certified that the particular needs of the resident can be adequately met in the facility; and

(iii) has certified that there has been no significant change in health care status that would require another level of care.

To move in and remain in a Category C facility, an individual:

(1) Must have a severe cognitive impairment that renders the resident incapable of expressing needs or of making basic care decisions;

(2) May be at risk for leaving the facility without regard for personal safety;

(3) Except as provided in (2), the resident may not be a danger to self or others; and

(4) May not require physical or chemical restraint or confinement in locked quarters, but may consent to the use of safety devices.

To move in and remain in a Category D facility, an individual:

(1) must meet (2) and (3) below OR a court has ordered diversion.

(2) Must be dependent on assistance for two or more activities of daily living and may require skilled nursing care or other services that may be provided or arranged for by either the facility or the resident or provided for in the facility agreement.

(3) Must be assessed by a practitioner or adjudged by a court as having been or potentially being a danger to self or others. The practitioner shall submit both a health care assessment, renewed on a monthly basis, and a written order for care that:

(i) provides information on behavioral patterns under which the category D resident may pose a threat to others and may need to be kept separate from other category D residents or residents in other categories of assisted care;

(ii) lists the conditions under which the category D resident can be reasonably, temporarily restrained, using protective

restraints, medications, or confinement to avoid harm to the resident or others;

(iii) includes a reason why a category D assisted living facility is more appropriate than other options for care and provides an assessment of the resident's needs and plan for care; and

(iv) indicates the timeframe over which the resident's health care status has remained the same or changed.

An assisted living facility shall enter into a written resident agreement with each prospective resident prior to admission, which must include at least the following items:

(a) the criteria for requiring transfer or discharge of the resident to another facility providing a different level of care;

(b) a statement explaining the availability of skilled nursing or other professional services from a third party provider to a resident in the facility;

(c) the extent that specific assistance will be provided by the facility as specified in the resident service plan;

(d) a statement explaining the resident's responsibilities including house rules, the facility grievance policy, facility smoking policy, facility policy regarding pets, and the facility policy on medical and recreational marijuana use;

(e) a listing of specific charges to be incurred for the resident's care, frequency of payment, facility rules relating to nonpayment of services, and security deposits, if any are required;

(f) a statement of all charges, fines, penalties, or late fees that shall be assessed against the resident;

(g) a statement that the agreed upon facility rate shall not be changed unless 30 days' advance written notice is given to the resident and/or the resident's legal representative; and

(h) an explanation of the assisted living facility's policy for refunding payment in the event of the resident's absence, discharge, or transfer from the facility and the facility's policy for refunding security deposits.

(2) When there are changes in services, financial arrangements, or in requirements governing the resident's conduct and care, a new resident/provider agreement must be executed or the original agreement must be updated by addendum and signed and dated by the resident or the resident's legal representative and by the facility representative.

Additionally, Category C facilities must, prior to admission, inform the resident's legal representative in writing of the following:

(a) the overall philosophy and mission of the facility regarding meeting the needs of residents afflicted with severe cognitive impairment and the form of care or treatment offered;

(b) the process and criteria for move-in, transfer, and discharge;

- (c) the process used for resident assessment;
 - (d) the process used to establish and implement a health care plan, including how the health care plan will be updated in response to changes in the resident's condition;
 - (e) staff training and continuing education practices;
 - (f) the physical environment and design features appropriate to support the functioning of cognitively impaired residents;
 - (g) the frequency and type of resident activities;
 - (h) the level of involvement expected of families and the availability of support programs; and
 - (i) any additional costs of care or fees.
- (2) The facility must provide a resident or a resident's legal representative with written documentation of the information specified in (a)-(i).

Category D facilities or units must also, prior to admission, inform the resident or resident's legal representative in writing of the following:

- (a) the overall philosophy and mission of the facility regarding meeting the needs of residents with mental illness and the form of care or treatment offered;
 - (b) the process and criteria for admission and discharge;
 - (c) the process used for resident assessments;
 - (d) the process used to establish and implement a health care plan, including how the health care plan will be updated in response to changes in the resident's condition;
 - (e) staff training and continuing education practices;
 - (f) the physical environment and design features appropriate to support the functioning of mentally disabled residents, including features for the resident who requires seclusion and restraint;
 - (g) the frequency and type of resident activities; and
 - (h) any additional costs of care or fees.
- (2) The facility must obtain from the resident or resident's legal representative a written acknowledgment that the information specified was provided. A copy of this written acknowledgment must be kept as part of the permanent resident file.

**Resident Assessment
Requirements and Frequency**

Prior to admission, the facility is required to conduct an initial resident needs assessment to determine the prospective resident's needs. The assessment must include documentation of the following:

- (a) cognitive patterns to include short-term memory, long term memory, memory recall, decision making, and change in cognitive status/awareness, or thinking disorders;
- (b) sensory patterns to include hearing, ability to understand others, ability to make self understood, and ability to see in adequate light;

- (c) ADL functional performance to include ability to transfer, locomotion, mobility devices, dressing, eating, use of toilet, bladder continence, bowel continence, continence appliance/programs, grooming, and bathing;
- (d) mood and behavior patterns, sadness or anxiety displayed by resident, wandering, verbally abusive, physically abusive, and socially inappropriate/disruptive behavior;
- (e) health problems/accidents;
- (f) weight/nutritional status to include current weight and nutritional complaints;
- (g) skin problems;
- (h) current medication use including over-the-counter and/or prescription medications; and
- (i) use of restraints, safety, or assistive devices.

A category D facility must obtain or conduct three types of resident assessments for each resident:

(1) Prior to move in, the facility shall obtain court determination documentation required in state law, as applicable, as well as a full medical history and physical and mental health and mental disorders assessment.

(2) A resident needs assessment must be completed within seven days prior to admission to facility. The assessment must be reviewed/updated quarterly, and upon significant change in status.

(3) The administrator, or designee, must request and retain copies of the healthcare assessment and written order for care completed monthly by the practitioner.

Medication Management

All residents in a Category A facility must self-administer their medication. Those Category B facility residents that are capable of, and who wish to self-administer medications, shall be encouraged by facility staff to do so. Any direct care staff member who is capable of reading medication labels may provide necessary assistance to a resident in taking their medication, as defined in ARM 37.106.2805. All medications administered to a Category B resident shall be administered by a licensed health care professional or by an individual delegated the task under the Nurse Practice Act and ARM Title 8, chapter 32, subchapter 17.

All Category D residents must be assessed on their ability and be encouraged to self-administer their own medication. If a resident is unable or unwilling to self-administer his or her medication, a licensed nurse shall administer all medication and the resident must be classified as a category B resident. When a Category D resident refuses a medication, the resident's

practitioner shall be notified within 24 hours and notification documented.

Staffing Requirements

Administrators shall develop minimum qualifications for the hiring of direct care staff and support staff and develop policies and procedures for conducting criminal background checks, hiring, and assessing staff, which include practices that assist the employer in identifying employees who may pose risk or threat to the health, safety, or welfare of any resident. A name-based or FBI fingerprint background check shall be conducted on all employees who have accepted employment at an assisted living facility. If an applicant has lived outside the state within the past five years, the assisted living facility must complete background checks in every state in which the applicant has resided within the past five years unless the name-based background check yields nationwide results, or the facility may conduct a FBI fingerprint background check. An employee may work provisionally pending the background check results so long as there are no indications the employee poses a risk or threat to the health, safety, or welfare of the residents in the facility. New employees shall receive orientation and training in areas relevant to the employee's duties and responsibilities, including:

(a) an overview of the facility's policies and procedures manual in areas relevant to the employee's job responsibilities;

(b) a review of the employee's job description;

(c) services provided by the facility;

(d) the Montana Elder and Persons with Developmental Disabilities Abuse Prevention Act found at 52-3-801 et seq., MCA;

(e) the Montana Long-Term Care Resident Bill of Rights Act found at 50-5-1101 et seq., MCA;

(f) staff who are responsible for assisting with self-administration of medication will receive orientation and training on resident Medication Administration Records (MARs) and the five rights of medication administration; and

(g) all direct care staff will receive, at minimum, two hours of training in dementia care upon hire and annually thereafter.

Additionally, direct care staff are required to: be trained to perform the services established in each resident service plan; review each resident's current service plan or health care plan and document that they have reviewed the plan and can perform the services required; be trained in the use of the abdominal thrust maneuver and basic first aid.

If the facility offers cardiopulmonary resuscitation (CPR), at least one person per shift shall hold a current CPR certificate.

The following staffing requirements must also be followed:

(a) direct care staff shall have knowledge of the resident's needs and any events about which the employee should notify the administrator or the administrator's designated representative;

(b) the facility shall have a sufficient number of qualified staff on duty 24 hours a day to meet the scheduled and unscheduled needs of each resident.

(c) an individual on each work shift shall have keys to all relevant resident care areas and access to all items needed to provide appropriate resident care;

(d) direct care staff may not perform any service for which they have not received appropriate documented training; and

(e) facility staff may not perform any health care service that has not been appropriately delegated under the Montana Nurse Practice Act or in the case of licensed health care professionals, that is beyond the scope of their license.

Categories B-D regulations include additional qualifications and requirements.

In addition to the requirements listed above, Category B nonprofessional staff providing direct care in an assisted living category B facility must show documentation of in-house training related to the care and services they are to provide under direct supervision of a registered nurse or supervising nursing service providing category B care, including those tasks that may be delegated to licensed practical nurses (LPN) and unlicensed assistive personnel in accordance with the Montana Nurse Practice Act. Staff members whose job responsibilities will include supervising or preparing special or modified diets, as ordered by the resident's practitioner, shall receive training prior to performing this responsibility. Prior to providing direct care, Category B direct care staff must work under direct supervision for any direct care task not yet trained or properly oriented and must not take the place of the required certified person.

In addition to meeting all other requirements for direct care staff, assisted living category C facility direct care staff must receive additional documented training in:

(a) the facility or unit's philosophy and approaches to providing care and supervision for persons with severe cognitive impairment;

(b) the skills necessary to care for, intervene and direct residents who are unable to perform activities of daily living;

(c) techniques for minimizing challenging behavior including:

(i) wandering;

(ii) hallucinations, illusions and delusions; and

- (iii) impairment of senses;
- (d) therapeutic programming to support the highest possible level of resident function including:
 - (i) large motor activity;
 - (ii) small motor activity;
 - (iii) appropriate level cognitive tasks; and
 - (iv) social/emotional stimulation;
- (e) promoting residents' dignity, independence, individuality, privacy and choice;
- (f) identifying and alleviating safety risks to residents;
- (g) identifying common side effects and untoward reactions to medications; and
- (h) techniques for dealing with bowel and bladder aberrant behaviors.

Category C staff must remain awake, fully dressed and be available in the facility or on the unit at all times to provide supervision and care to the resident as well as to assist the residents in evacuation of the facility if a disaster occurs.

A category D facility must have the following staff:

- (a) a registered nurse (RN) must be on duty or on call and available physically to the facility within one hour;
- (b) a licensed mental health professional who must be site-based; and
- (c) direct care staff in sufficient number to meet the needs of the residents. Direct care staff must be certified nursing assistants.

In addition to all other requirements listed above, all Category D facility staff must:

- (a) be at least 18 years old;
- (b) complete an FBI fingerprint background check upon hiring;
- (c) complete four hours of annual training related to mental health and mental disorders;
- (d) complete training requirements in ARM 37.106.2908; and
- (e) complete training on de-escalation techniques and methods of managing resident behaviors.

All staff must remain awake, fully dressed, and available on the unit at all times when they are on duty.

**Administrator/Director
Education and Training
Requirements**

A Category A administrator must:

- (a) be currently licensed as a nursing home administrator in Montana or another state; or
- (b) have successfully completed all of the self study modules of "A Management Reference for Executive Directors - Admin Level 1 Certificate Program," a component of the assisted living training system published by the Senior Living University (SLU) or an alternate, approved program; or
- (c) be enrolled in and complete the self study course referenced

in (b) , within six months from hire.

(3) Must show evidence of at least 16 contact hours of annual continuing education relevant to the individual's duties and responsibilities as administrator of the assisted living facility.

A nursing home administrator license or the SLU certification may count as 16 hours of annual continuing education but only for the calendar year in which the license or certification was initially obtained.

A Category B administrator must meet the requirements of a Category A administrator and must also have one or more years experience working in the field of geriatrics or caring for disabled residents in a licensed facility.

A Category C administrator must meet the requirements of a Category A administrator and must also

(a) have three or more years experience in working in the field of geriatrics or caring for disabled residents in a licensed facility; or

(b) have a documented combination of education and training that is equivalent to the experience required in (a).

At least eight of the 16 hours of annual continuing education the administrator must complete shall pertain to caring for persons with severe cognitive impairments.

A Category D administrator must meet the requirements of a Category B administrator and must also have a least three years of experience in the field of mental health and mental disorders. Of the 16 hours of annual continued education training required, eight hours must be in the field of mental health and mental disorders.

Direct Care Staff Education and Training Requirements

All direct care staff will receive, at minimum, two hours of training in dementia care upon hire and annually thereafter. They must also: be trained to perform the services established in each resident service plan; review each resident's current service plan or health care plan and document that they have reviewed the plan and can perform the services required; and be trained in the use of the abdominal thrust maneuver and basic first aid. If the facility offers cardiopulmonary resuscitation (CPR), at least one person per shift shall hold a current CPR certificate. All direct care staff shall also have knowledge of the resident's needs and any events about which the employee should notify the administrator or the administrator's designated representative. Direct care staff may not perform any service for which they have not received appropriate documented training and facility staff

may not perform any health care service that has not been appropriately delegated under the Montana Nurse Practice Act or in the case of licensed health care professionals, that is beyond the scope of their license. Direct care staff shall also receive training related to maintenance of skin integrity and the prevention of pressure sores.

Categories B-D regulations include additional qualifications and requirements.

In addition to the requirements listed above, Category B nonprofessional staff providing direct care in an assisted living category B facility must show documentation of in-house training related to the care and services they are to provide under direct supervision of a registered nurse or supervising nursing service providing category B care, including those tasks that may be delegated to licensed practical nurses (LPN) and unlicensed assistive personnel in accordance with the Montana Nurse Practice Act. Staff members whose job responsibilities will include supervising or preparing special or modified diets, as ordered by the resident's practitioner, shall receive training prior to performing this responsibility. Prior to providing direct care, Category B direct care staff must work under direct supervision for any direct care task not yet trained or properly oriented and must not take the place of the required certified person.

In addition to meeting all other requirements for direct care staff, assisted living category C facility direct care staff must receive additional documented training in:

- (a) the facility or unit's philosophy and approaches to providing care and supervision for persons with severe cognitive impairment;
- (b) the skills necessary to care for, intervene and direct residents who are unable to perform activities of daily living;
- (c) techniques for minimizing challenging behavior including:
 - (i) wandering;
 - (ii) hallucinations, illusions and delusions; and
 - (iii) impairment of senses;
- (d) therapeutic programming to support the highest possible level of resident function including:
 - (i) large motor activity;
 - (ii) small motor activity;
 - (iii) appropriate level cognitive tasks; and
 - (iv) social/emotional stimulation;
- (e) promoting residents' dignity, independence, individuality, privacy and choice;
- (f) identifying and alleviating safety risks to residents;

- (g) identifying common side effects and untoward reactions to medications; and
- (h) techniques for dealing with bowel and bladder aberrant behaviors.

Category D direct care staff must also be certified nursing assistants who:

- (a) are at least 18 years old;
- (b) complete an FBI fingerprint background check upon hiring;
- (c) complete four hours of annual training related to mental health and mental disorders;
- (d) complete training requirements in ARM 37.106.2908; and
- (e) complete training on de-escalation techniques and methods of managing resident behaviors.

Quality Requirements

There are no specific quality requirements detailed.

Infection Control Requirements

All assisted living facilities:

(1) must establish and maintain infection control policies and procedures sufficient to provide a safe, sanitary, and comfortable environment to help prevent the development and transmission of communicable diseases and infections. Such policies and procedures must include, at a minimum, the following requirements:

- (a) a system for preventing, identifying, investigating, and controlling infections and communicable diseases for all residents, staff, volunteers, and visitors;

- (b) standard and transmission-based precautions to be followed to prevent spread of infections;

- (c) when and how isolation should be used for a resident, including:

- (i) the type and duration of the isolation, depending upon the infectious agent or organism involved; and

- (ii) a requirement that the isolation should be the least restrictive possible for the resident under the circumstances;

- (d) any other circumstances under which the facility must prohibit employees with a communicable disease or infected skin lesions from direct contact with residents or their food, if direct contact will transmit disease;

- (e) if, after admission to the facility, a resident is suspected of having a communicable disease that would endanger the health and welfare of other residents, the administrator or designee must contact the resident's practitioner and assure that appropriate safety measures are taken on behalf of that resident and the other residents; and

- (f) all staff shall use proper hand washing technique after providing direct care to a resident.

(2) The facility, where applicable, shall comply with applicable

statutes and rules regarding the handling and disposal of hazardous waste.

Emergency Preparedness Requirements

There are no specific emergency or disaster preparedness requirements detailed.

Life Safety Requirements

Montana has adopted National Fire Protection Association standards. Construction of or alteration, addition, modification, or renovation to an assisted living facility must meet the requirements of the building code and fire marshal agencies having jurisdiction. When a change in use, ownership, or building code occupancy classification occurs, licensure approval shall be contingent on meeting the building code and fire marshal agencies' standards in effect at the time of such a change. Changes in use include adding a category B, C, or D license endorsement to a previously licensed category A facility. Exit doors must be operable on the resident side of the door with a single motion and may not require special knowledge for the resident to open, except as approved by the fire marshal and building codes agencies having jurisdiction or in a secured unit or building that services category C or category D residents. Stairways, halls, doorways, passageways, and exits from rooms and from the building, shall be kept unobstructed at all times. All operable windows and outer doors that may be left open shall be fitted with insect screens. Additionally, a facility must have an annual fire inspection conducted by the appropriate local fire authority or the state fire marshal's office and maintain a record of such inspection for at least three years following the date of the inspection. An employee and resident fire drill must be conducted at least two times annually, no closer than four months apart, and include residents, employees and support staff on duty and other individuals in the facility with these records being maintained on the premises for 24 months from the date of the drill. A 2A10BC portable fire extinguisher shall be available on each floor of a facility licensed for 20 or more residents. Facilities licensed for less than 20 residents shall comply with the requirements of the fire authority having jurisdiction with respect to the number and location of portable fire extinguishers. Smoke detectors installed and maintained pursuant to the manufacturer's directions shall be installed in all resident rooms, bedroom hallways, living room, dining room, and other open common spaces or as required by the fire authority having jurisdiction. If there is an inside designated smoking area, it shall be separate from other common areas, and provided with adequate mechanical exhaust vented to the outside.

Medicaid Policy and Reimbursement

A Medicaid Section 1915(c) home and community-based services waiver, Big Sky Waiver for the Elderly and Adults with Physical Disabilities, covers services in assisted living facilities.

Citations

Montana Department of Health and Human Services. (2023, September 24). Administrative Rules of Montana 37.106.28: Assisted Living Facilities.

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